

U.S. DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON
ELECTRONIC FILING PROCEDURES FOR CIVIL AND CRIMINAL CASES
AMENDED 6/30/09

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I. THE ELECTRONIC RECORD

A. Introduction

The official record of the court shall be the electronic file maintained on the court's servers. This includes information transmitted to the court in electronic format, as well as in paper form.

The Clerk's Office shall not maintain a paper court file in any case begun on or after June 23, 2003, except as otherwise provided in these procedures.

Registration in the CM/ECF system for the purpose of electronic service of pleadings and other papers shall be mandatory as of May 1, 2004.

Electronic filing through CM/ECF shall be mandatory for all counsel as of June 1, 2004.

It is the responsibility of the filing party to maintain an electronic mailbox sufficient to receive the orders and other papers transmitted electronically to counsel.

If an attorney is not able to file electronically, counsel must show good cause in each case to file and serve pleadings in a traditional manner. Counsel who succeed in showing cause will be required to include with paper filings a disk or CD-ROM containing a portable document format (PDF) of all papers filed with the court. All PDF files must be under 5 megabytes in size.

For pro se filers who do not file electronically, if pleadings are filed in paper form, the court will convert the documents to an electronic format, destroy the paper version after a holding period established by the court, and maintain the electronic version as the court's official record.

If pleadings are filed in paper form, it is the responsibility of the filer to ensure that the paper document can be scanned with a legible image. The court encourages such documents to be black print on white paper, for maximum contrast. The court may return filings that are not legible.

A party filing in paper form who wishes to have an original pleading returned after scanning and uploading to ECF may, at the time of submitting the document to the court, make arrangements with the Clerk's Office for the return of the original pleading.

If an original pleading has some intrinsic value, the filing party is encouraged to retain the original and submit a copy to the Clerk's Office for scanning and uploading.

A judge of this court may deviate from these procedures in specific cases, without prior notice, if deemed appropriate for the just, speedy, and inexpensive determination of matters pending before the court.

The court may also amend these procedures at any time without prior notice.

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B. Definitions and Standards

“CM/ECF” refers to Case Management/Electronic Case Files, which is the docketing and filing system used by the Western District of Washington.

“Electronic document” is an electronic version of information otherwise filed in paper form.

An electronic document has the same legal effect as a paper document.

An electronic document is deemed filed when it is received by the court’s CM/ECF system. If time of day is of the essence, the assigned judge will order the document filed by a time certain. Otherwise, filing deadlines shall be 11:59 PM Pacific Time on the day the pleadings are required to be filed.

A document filed with the court in paper form is deemed filed when it is date-stamped by the Clerk’s Office.

“Electronic filing” is the electronic transmission of a PDF document to the court for case processing by uploading the document directly from the user’s computer, using the court’s CM/ECF system, to file that document in the case file. It includes the transmission of PDF documents and scanned images.

PDF: A document created with almost any word processing program can be converted to PDF. The PDF conversion program, in effect, takes a picture of the original document so the converted document can be opened across a broad range of hardware and software, with layout, format, links, and images intact.

Scanning: When scanning documents to be subsequently filed electronically, filing parties are encouraged to configure their scanners for black and white at 200 dpi, rather than color scanning, unless color is an important aspect of the document. The filing party is responsible for the legibility of the scanned image.

“Electronic signature” refers to the fact that an electronic document is deemed signed when filed by an attorney, pro se litigant, judicial officer, or deputy clerk using a valid Western District of Washington login and password.

“Notice of Electronic Filing” is an e-mail verification of the court’s receipt of the electronic pleading, as well as official notice of the filing to all other parties. The Notice includes the text of the docket entry, as well as a link to the filed document(s).

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II. ENROLLING IN THE CM/ECF SYSTEM

A. Registration

Each person participating in the electronic filing system must first register.

A form is available on the court's web site at www.wawd.uscourts.gov.

The court will issue logins and passwords to attorneys in good standing or pro se litigants with cases pending before the court. Attorneys admitted pro hac vice must also register.

Registration constitutes consent to electronic service of documents, as provided in Section III (D) of these procedures.

Registration forms may be mailed or delivered to the Clerk's Office, U.S. Courthouse, 700 Stewart St, Seattle, WA 98101, or faxed to the Clerk's Office at 206-370-8861.

B. Logins and Passwords

Each person registered to file electronically will be given one ECF login and password from the court. The login and password permit the person to participate in the electronic filing and retrieval of pleadings and other papers.

Each registered user is responsible for all documents filed with this login and password. No one shall knowingly permit, or cause to permit, a login and password to be used by unauthorized persons. Conversely, no one shall use the login and password of another without explicit authorization.

C. Changes

A participant whose mailing address, or telephone number has changed from that on the original Registration Form must file a notice of change of address (or number) with the court. See Local Rule CR 10(f).

Participants may change their passwords and e-mails as they deem appropriate.

If a participant believes that the security of an existing login and password has been compromised and that a threat to ECF exists, he or she shall notify the Clerk's Office immediately by telephone. Court computer staff will assess the threat and advise appropriately.

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III. FILING DOCUMENTS ELECTRONICALLY

A. General Provisions

Effective June 1, 2004, counsel are required to file all documents electronically through ECF. The limited number of exceptions, or those which require special handling, are described below.

B. Civil Complaints

At this time, civil complaints and cover sheets may not be filed through ECF. Civil complaints and cover sheets may, however, be sent by e-mail, by U.S. mail, or delivered on paper or disk to the Clerk's Office for processing and posting by Clerk's Office staff to CM/ECF.

The court anticipates upcoming streamlined electronic access for filing new cases, including making credit card payments on-line. Information will be updated on the web site and announced in CM/ECF newsletters.

If using the U.S. mail or if personally delivered, the Clerk's Office will scan the civil complaint and cover sheet, upload them to ECF, then discard the paper documents after a holding period established by the court. The filing fee must accompany the complaint. Providing PDF copies under the 5-megabyte limit on diskette or CD is very helpful.

If using e-mail, the filing party must submit the civil complaint and cover sheet as separate files in PDF format, each file being under the 5-megabyte size restriction. Upon receipt of the e-mail, the Clerk's Office will contact the filing party to make arrangements for payment of the filing fee. New cases will not be filed until the filing fee has been paid.

The e-mail addresses for submitting civil complaints by e-mail are:

Seattle Filing: **newcases.seattle@wawd.uscourts.gov**

Tacoma Filing: **newcases.tacoma@wawd.uscourts.gov**

Only new civil complaints, cover sheets, and summons forms may be sent to the e-mail addresses listed above. If other documents are sent to these e-mail addresses, the Clerk's Office will call the filing party and explain that the documents must be electronically filed in ECF. In this case, the filing date will be the date the documents are actually electronically filed.

New civil cases are deemed filed the day the Clerk's Office receives the complaint and any required filing fee.

A party may not electronically serve a civil complaint, but instead must effect service according to Rule 4 of the Federal Rules of Civil Procedure.

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C. Issuance of Summons

Summons to be issued may be presented to the court by e-mail, by U.S. mail, or delivered in person to the Clerk's Office. The party requesting the issuance of summons must complete the top portion of the summons form.

If sending the summons by e-mail, send them with the complaint to the "newcases" e-mail addresses listed in the previous section.

If sending the summons by U.S. mail, also submit a stamped, self-addressed return envelope. Once the summons has been issued, the Clerk's Office will return the summons to the filing party.

A party may not electronically serve a summons, but instead must perfect service according to Rule 4 of the Federal Rules of Civil Procedure.

Affidavits of service, which may include executed summons, are to be filed electronically through ECF.

D. Service

See Local Civil Rule 5(f). A certificate of service on all parties entitled to service or notice is still required when a party files a document electronically. The certificate will be filed electronically on the document itself, or by a separate filing if necessary and must state the manner in which service was accomplished on each party. Sample language for a certificate of service is provided on the court's web site.

The three-day rule of Federal Rule of Civil Procedure 6(d) for service by mail shall also apply to service by electronic means.

Whenever a pleading or other paper is filed electronically in accordance with these procedures, ECF will generate an e-mail "Notice of Electronic Filing" to the filing party and to any other party who is a registered user.

If the recipient is a registered participant in ECF, receipt of the Notice of Electronic Filing shall constitute service pursuant to the Federal Rules.

If the recipient is not a registered participant in ECF, service of the underlying document must be made by the filer in paper form according to the Federal Rules.

Whenever a pleading or other paper is filed in paper form for the Clerk's Office to scan and upload to CM/ECF, the filer must serve conventional copies on all parties to the case.

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E. Motions and Related Paperwork

Captions on documents:

PDF documents being submitted for filing must be free of all watermarks and advertisements.

Documents being submitted in response to, in support of, or in opposition to other documents shall be clearly labeled with the reference to the motion or response included in the caption.

Hyperlinks:

In order to preserve the integrity of the court record, attorneys wishing to insert hyperlinks in court filings shall continue to use the traditional citation method for the cited authority, in addition to the hyperlink. The judiciary's policy on hyperlinks is that a hyperlink contained in a filing is no more than a convenient mechanism for accessing material cited in the document. A hyperlink reference is extraneous to any filed document and is not part of the court's record.

F. Voluminous Documents

When documents that exceed 50 pages in length are filed electronically: A paper copy of the document shall be delivered to the Clerk's Office for chambers.

The copy for chambers shall be clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers." If any chambers has a different requirement for courtesy copies, an order will be posted in the case to advise all parties.

All exhibits submitted to chambers in support of or opposition to a motion must be clearly marked with divider pages.

All exhibits must be marked to designate testimony or evidence referred to in the parties' filing.

A "document" in the context of this section refers to the aggregate submittal to the court, not to each individual paper within it. For example, if a motion is filed with related paperwork, declarations, etc., and if all of these papers counted together total more than 50 pages, the filing should be considered a "voluminous document."

G. Pagination

Documents, including exhibits, shall be sequentially paginated in their entirety, with the page numbers appearing in the lower left margin of the document.

H. Administrative Records *

Administrative records may not be filed electronically, although the other documents and pleadings filed in cases with administrative records must be filed electronically.

The administrative record must be filed conventionally and will not be scanned by the Clerk's Office.

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The party filing a administrative record shall also file a Notice of Filing Paper Materials with the Clerk. The Notice shall be in the form provided by the court, which is available on the court's web site.

Pursuant to Civil Local Rule 79, the administrative record will be returned to the party at the end of the litigation and after the time for appear has run.

I. Exhibits

Special provisions for exhibits:

Filing parties shall submit only those excerpts of the referenced exhibits that are directly germane to the matter under consideration. Excerpted material must be clearly and prominently identified as such. Parties who file excerpts do so without prejudice to their right to timely file additional excerpts of the exhibit in reply briefs. Responding parties may also timely file additional excerpts of the exhibit that they believe are directly germane.

Paper exhibits must be scanned and saved in PDF files that are less than 5 megabytes in size. Large documents may need to be broken into "chunks" so that each PDF is under the 5-megabyte limit.

If possible, filing parties should scan documents in black and white, rather than in color, unless the color is an important feature of the information.

The filing party is required to verify the readability of scanned exhibits before filing them electronically with the court.

Non-paper and/or oversized exhibits (papers larger than 8-1/2 x 14) shall be submitted conventionally and shall be returned at the conclusion of the case. Copies of such conventionally-filed exhibits shall be served on other parties as if not subject to electronic filing procedures.

The party filing non-paper and/or oversized exhibits shall also file a Notice of Filing Paper Materials with the Clerk. The Notice shall be in the form provided by the court, a copy of which is available on the court's web site.

J. Transcripts

Transcripts prepared by court reporters are electronically filed by the court as a Notice of Filing of Official Transcript. Procedures are set out in the General Order in Regards to Redaction filed on May 1, 2008. The General Order regarding the policy can be found on the court's website at: www.wawd.uscourts.gov located under reference materials, general orders and then court reporters.

*** Administrative Records: The court has authorized electronic filing of administrative records in social security cases. These records should be filed under seal. This is a pilot program and is subject to change.**

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K. Signatures

Attorney signatures: All pleadings shall be dated and signed as provided by Rule 11 of the Federal Rules of Civil Procedures. An electronically filed pleading or other document which requires an attorney's signature must have the signors' names printed or typed under all signatures lines. The filer name must match the signature name. Documents not signed in accordance with these requirements might not be considered. Example below:

____s/_____

John Attorney
State Bar Number
12345 ABC Law Firm 123 South Fifth Street
Seattle, WA 98104
Telephone: (206) 123-4567 Fax: (206) 123-4567
E-mail: John_Attorney@lawfirm.com

Any party challenging the authenticity of an electronically filed document or the attorney's signature on that document must file an objection to the document within ten days of filing.

Non-attorney signatures: If the original document requires the signature of a non-attorney, the filing party may scan the entire document, including the signature page, or attach the scanned signature page to an electronic version of the filing.

Any party challenging the authenticity of an electronically filed document with a non-attorney signature may file an objection to the document.

The filing party is responsible for maintaining the paper document with original signatures for the duration of the case, including any period of appeal.

Any party challenging the authenticity of an electronically filed document containing a non-attorney signature, or the authenticity of the signature itself, must file an objection to the document within ten days of filing.

Multiple signatures: The following procedure applies when a stipulation or other document requires two or more signatures:

The filing party shall initially confirm that the content of the document is acceptable to all persons required to sign the document, and shall obtain either physical signatures or authorization for the electronic signatures of all parties on the document. Physical, facsimile, or electronic signatures, consistent with the formats for attorney signatures, are permitted.

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The filing party may then file the document electronically, indicating the signatories as “s/ Jane Doe,” “s/ John Smith,” etc. The correct format for a signature is the same as that previously described for attorneys’ signatures.

Any party challenging the authenticity of an electronically filed document containing multiple signatures, or the authenticity of the signatures themselves, must file an objection to the document within ten days of filing.

If any of the signatures are of non-attorneys, then the provisions described in the previous section for the filing party retaining the paper copy also applies.

L. Orders and Proposed Orders

Orders of the court:

The assigned judge or the Clerk’s Office shall electronically file all signed orders. An order signed electronically (by either a digital signature or by using the “s/ Judge’s Name” convention) has the same force and effect as if the judge had affixed a signature to a paper copy of the order.

The assigned judge or the Clerk’s staff, if appropriate, may grant routine orders by a text-only entry upon the docket. In such cases, no PDF document will issue, and the text-only entry shall constitute the court’s only order on the matter. ECF will generate a “Notice of Electronic Filing” as described previously in these procedures.

When mailing paper copies of an electronically filed order to a party who is not a registered ECF participant, the Clerk’s Office will include the Notice of Electronic Filing to provide the non-participant with proof of the filing.

Proposed orders shall be submitted as outlined below:

Electronically-submitted proposed orders shall be filed with the motion as an attachment and named “Proposed Order” on the system. This will provide service of the proposed order to all registered parties.

All proposed orders must be conspicuously labeled “Proposed.” If the judge decides to use the proposed order, s/he will remove the “Proposed” language.

If a proposed order is submitted separately, or without a motion, the event “Proposed Order (Unsigned)” may be used. If appropriate, it can be linked to a previously filed motion.

A proposed order shall also be attached as a Word or WordPerfect compatible file to an internet e-mail sent to the e-mail address of the assigned judge. The subject line of the e-mail shall

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include the case number and title of the order. The judges' e-mail addresses for proposed orders only follow this pattern:

JudgeLastNameOrders@wawd.uscourts.gov

For example: **LasnikOrders@wawd.uscourts.gov**

Proposed orders on motions for default made pursuant to Local Civil Rule 55 should be prepared in a format compatible with Word or WordPerfect (as described previously) and then attached to an internet e-mail sent to the Clerk's Office at the following e-mail address:

WAWDClerk@wawd.uscourts.gov.

No other documents or pleadings may be sent to the Clerk's Office at this e-mail address.

M. Docket Entries

The party electronically filing a pleading or other document is responsible for designating a docket entry title for the document by using one of the event categories prescribed by the court. (See "CM/ECF Civil Menu for Attorneys" or "CM/ECF Criminal Menu for Attorneys" on the court's web site). Select the menu choice that most clearly relates to the type of document being filed.

Once a document is submitted and becomes part of the electronic case file, corrections to the docket can only be made by the Clerk's Office. ECF will not permit the filing party to make changes once the transaction has been accepted.

As soon as possible after an error is discovered, the filer should contact the Clerk's Office with the case number and document number for which the correction is being requested.

If the error is discovered during business hours, the filer should call the ECF Help Desk (1-866-323-9293 or 206-370-8440) prior to re-filing a document. If appropriate, the Clerk's Office will make an entry indicating that the document was filed in error.

The filer will be advised if the document needs to be re-filed.

N. Fees Payable to the Clerk

Any fee required for filing a pleading or paper in district court is payable to the Clerk of the Court by credit card, check, money order, or cash, with the exception of the pro hac vice application fee.

Pro hac vice applications are filed electronically and the fee must be paid by credit card via pay.gov while filing the application.

The Clerk's Office will document the receipt of fees on the docket with a text-only entry if the fee is not paid by credit card via pay.gov while filing a pleading/paper.

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The court will not maintain billing or debit accounts for lawyers or law firms. Credit card authorization forms can be left on file with the Finance Unit of the Clerk's Office. Once the credit card expires, these forms are discarded. A new form must be completed and re-filed with the Finance Unit of the Clerk's Office.

Changes to these procedures may occur as the court transitions to increased on-line payment functionality. These changes will be announced on the web site and in the newsletter.

O. Emergency Filings

Mandatory electronic filing also applies to emergency pleadings. The filer shall call the Clerk's Office at 206-370-8400 (Seattle) or 253-882-3800 (Tacoma) to advise the court of the emergency nature of the filing.

IV. PRIVACY AND CONFIDENTIALITY

A. Sealed Cases

Sealed cases must be filed in paper. There is no electronic access to sealed cases other than by court staff.

B. Sealed Documents

See Local Civil Rule 5(g). Attorneys may file sealed documents only with the approval of the Court. If possible, a party should protect sensitive information by redacting documents rather than seeking to file them under seal. Electronic access to sealed documents may be restricted by the court. If the filer adds docket text when filing a sealed document, that added text may become part of the public docket.

C. Privacy Concerns

See Federal Rule of Civil Procedure 5.2 and Local Civil Rule 5.2(a). To address privacy concerns created by internet access to court documents, filers should redact certain personal information appearing in pleadings and other papers, pursuant to the E-Government Act of 2002, Judicial Conference Privacy Policy, and Local Civil Rule 5.2(a).

. TECHNICAL FAILURES

A. On the Part of the Court

A party whose filing is untimely as the result of a technical failure of the court's CM/ECF site may seek appropriate relief from the court.

The court shall consider its CM/ECF site to be subject to a technical failure if the site is unable to accept filings, either continuously or intermittently, for more than one hour after 10:00 a.m. on any given day. Known systems outages will be posted on the court's web site. Users are responsible for monitoring the web site to be aware of regularly scheduled weekend down time for maintenance.

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D. On the Part of the Filer

Problems on the filer's end (such as phone line problems, problems with the filer's Internet Service Provider, or hardware or software problems) will not constitute a technical failure under these procedures, nor excuse an untimely filing.

A filer who cannot file a document electronically because of a problem on the filer's end should explore other e-filing options. The filer's login and password will work on any computer that has internet access, i.e., at the library, home computer, or in commercial business service centers.

VI. PUBLIC ACCESS TO DOCKET INFORMATION

A. At the Court

Electronic access to the civil and criminal electronic dockets and non-sealed, non-ex parte documents filed in ECF are available for viewing at no charge at the Clerk's Office during regular business hours. A copy fee for an electronic or paper copy is required in accordance with 28 USC § 1930.

B. Through the Internet

Remote electronic access to civil and criminal dockets and non-sealed, non-ex parte documents in ECF is provided through the Public Access to Court Electronic Records (PACER) system.

Registration for PACER can be done through its web site:

<http://pacer.psc.uscourts.gov>

The U.S. Judicial Conference has ruled that PACER user fees will be charged for remotely accessing documents and docket sheets. Non-judiciary CM/ECF users are charged a per-page fee access electronic data through the PACER system, with a maximum fee of 30 pages per document.

The standard PACER access fee does not apply to official recipients of electronic documents; i.e., parties legally required to receive service or to whom service is directed.

Official recipients will receive the initial electronic copy of a document free to download as they see fit.

The exception is for transcripts, which have no free look and no maximum charge.

If official recipients remotely access the document again, they will be charged a fee pursuant to 28 USC § 1930.

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C. Conventional and Certified Copies

Both conventional and certified copies of electronically filed documents may be purchased at the Clerk's Office. The fee for copying and certifying will be in accordance with 28 USC § 1914.